

REMARKS

Claims 12-14, 17-24 and 26-33 are pending with claims 26, 32 and 33 being withdrawn.

Claim Restriction

Applicants acknowledge that claims of groups I and II are being examined together, and in group I compound I is being excluded and in group II species IIb, IIIa and III'a in claim 17 are additionally being excluded. Applicants respectfully request reconsideration of the handling of the election requirement.

Moreover, applicants note that claims 12-14 are objected to because formula I is allegedly drawn to a non-elected invention. However, applicants respectfully submit that because the elected species was not found during the prior search by the Examiner, the full scope of the claims should be searched, including unelected species within the claim. Consequently, applicants respectfully submit that the Office should proceed with respect to the election requirement under the procedures provided by M.P.E.P. § 809.02(c). If the compound of formula I is not rendered unpatentable in view of a search, applicants respectfully submit that it should be rejoined to the other species of claims 12-14. In addition, the species IIb, IIIa and III'a should also be treated in a similar manner with respect to the claims of group II.

Applicants note that this divisional application was filed under 35 U.S.C. § 111(a), and therefore, the restriction practice under that statute is applicable. See M.P.E.P. § 1893.03(d) at page 1800-156.

Claim Rejections Under 35 U.S.C. § 112, Second Paragraph

Applicants have amended claims 17 and made a corresponding amendment in claim 23 to overcome these grounds of rejections. Particularly, applicants have deleted the term "derivative" and have provided a Markush group of compounds that may participate in the reaction. Consequently, applicants respectfully submit that these rejections should be withdrawn. Moreover, applicants respectfully submit that the amendments do not narrow the scope of the claims.

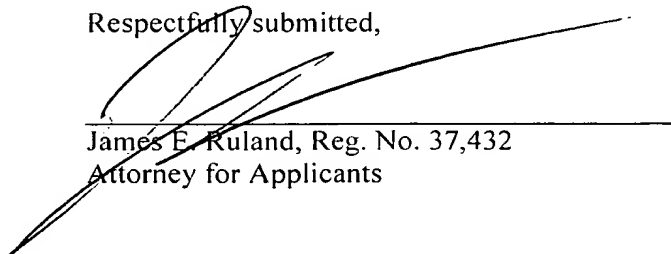
Patentability Comments

The action asserts that the R group establishes patentability of claims 12-14. However, the compound as a whole, including other structural moieties, should be considered as establishing patentability.

In view of the above, favorable reconsideration is courteously requested. If there are any remaining issues which can be expedited by a telephone conference, the examiner is courteously invited to telephone counsel at the number indicated below.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,



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Attorney Docket No.: HIRSCH-18 D1

Date: November 28, 2003

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HIRSCH-18 D1